

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
SOUTHERN DIVISION**

CALVIN WASHINGTON,

\*

Plaintiff,

\*

v.

\*

Civil Action No. AW-04-1970

WARDEN, *et al.*,

\*

Defendants.

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\* \* \* \* \*

**MEMORANDUM OPINION**

Currently pending before the Court is Plaintiff's Motion for Leave to File a Second Amended Complaint [61]. The Court has reviewed the entire record, as well as the Pleadings with respect to the instant motion. No hearing is deemed necessary. *See* Local Rule 105.6 (D. Md. 2004).

Rule 15(a) of the Federal Rules of Civil Procedure sets forth the standard for the amendment of pleadings. Rule 15(a) provides that, after a responsive pleading is served, a party can amend a pleading only by leave of court or by written consent of the adverse party. Rule 15(a) instructs that leave of court shall be freely given when justice so requires. Additionally, the decision whether to grant a motion to amend rests within the sound discretion of the Court. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Leave to amend should only be denied where undue delay is accompanied by prejudice, bad faith, or futility, which occurs when the proposed amendment is clearly insufficient or frivolous on its face. *Id.*; *see Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 510 (4th Cir. 1986).

The Court does not find that Plaintiff has acted in bad faith. Additionally, the Court finds that Plaintiff's proposed amendment is not clearly insufficient or frivolous on its face. However, as Defendants have stated, discovery is substantially complete in this case. For this reason, this Court will give parties additional time within which to complete discovery.

**CONCLUSION**

For the aforementioned reasons, this Court will grant Plaintiff's Motion for Leave to File a Second Amended Complaint [61]. An Order consistent with this Opinion will follow.

Date: June 26, 2006

/s/  
Alexander Williams, Jr.  
United States District Court